

APPEAL NO. 021181
FILED JUNE 26, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on April 19, 2002. The hearing officer resolved the disputed issue by deciding that the respondent (claimant) sustained a compensable injury on _____. The appellant (carrier) appealed. No response was received from the claimant.

DECISION

The hearing officer's decision is affirmed.

The claimant had the burden to prove that he sustained a compensable injury. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). Conflicting evidence was presented at the CCH on the disputed issue. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). Although the claimant has had several prior back injuries, the claimant's testimony and the opinion of the claimant's treating doctor support the hearing officer's decision that the claimant sustained a new injury to his back on _____, while performing his work activities for the employer. While we agree that the required medical examination doctor who examined the claimant on December 21, 2001, was seeing the claimant in regard to a prior injury, which makes the hearing officer's reliance on that doctor's report highly questionable, the hearing officer's opinion is nevertheless supported by the claimant's testimony and by the opinion of the treating doctor. We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**WILLIAM PARNELL
8144 WALNUT HILL LANE, SUITE 1600
DALLAS, TEXAS 75231.**

Robert W. Potts
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Philip F. O'Neill
Appeals Judge